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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,551	12/12/2005	Franz Heiss	294452-00001	2881
3705 7590 03/05/2008 ECKERT SEAMANS CHERIN & MELLOTT 600 GRANT STREET 44TH FLOOR PITTSBURGH, PA 15219				
EXAMINER				
ESTREMSKY, GARY WAYNE				
ART UNIT		PAPER NUMBER		
3673				
MAIL DATE		DELIVERY MODE		
03/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/560,551

**Applicant(s)**

HEISS, FRANZ

**Examiner**

Gary Estremsky

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF 298)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. The claims contain extensive use of terms without clear antecedent basis, and limitations whose subject is not clearly identified, as well as unclear use of alternative limitations. The following are examples of language issues that preclude clear interpretation of the claims but cannot be considered a comprehensive listing due to nature of the claim language:
  4. claim 1, line 1; it's not clear what is meant by "non-positive positioning". It's not clear if the "anchor piece" is necessarily a part of the claimed invention or not.
  5. line 2; It's not clear which structure(s) is referred to by recitation of "flange or yoke" and whether it necessarily forms part of the invention. It's not clear what, if anything is required to be "on the insertion piece".
  6. lines 3+; it's not clear if a single annular groove meets scope of alternative limitation defining the invention, or whether it must be in combination with one or more of : "annular ring", "anchor piece", "curved surface". Later limitation regarding "the curved surfaces" imply that more than one "curved surface" is required in scope of invention, but it's not clear.

7. line 4; it's not clear which disclosed structure is referred to by limitation of "ring on the hand".
8. line 5; It's not clear which structure is referred to by recitation of "other" in limitation "of "annular ring on the other". Assumably other 'hand'?
9. line 7; 'as best understood' a series of curved surfaces have been disclosed that are arranged so as to form an overall conical recess and cone shape.
10. last 3 lines of claim 1; it's not clear if one or more annular rings are required by scope of claim 1.
11. The balance of claims continue with similar language whereby the scope of the claimed invention is not clarified and their meaning is not well defined.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,447,733 to Baatz.
14. Baatz '733 teaches a conical element 4 and corresponding recess with o-rings provided at their juncture that 'as best understood' anticipates the claimed invention. Due to the indefiniteness of the claim language however, it's not clear how much of that structure is actually required by the claim limitations.

15. Claims 1, 2, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,043,727 to Henzi.

16. Henzi '727 teaches a conical element 44 and corresponding recess, both having grooves with an o-ring provided at their juncture that 'as best understood' anticipates the claimed invention. Due to the indefiniteness of the claim language however, it's not clear how much of that structure is actually required by the claim limitations.

***Allowable Subject Matter***

17. Claim 3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

19. U.S. Pat. No. 4,801,160 to Barrington.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Estremsky whose telephone number is 571 272-7055. The examiner can normally be reached on T,W,Th,F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on 571 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gary Estremsky  
Primary Examiner  
Art Unit 3673

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